

HB0069S04 compared with HB0069S02

~~{Omitted text}~~ shows text that was in HB0069S02 but was omitted in HB0069S04
inserted text shows text that was not in HB0069S02 but was inserted into HB0069S04

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1

Government Records and Information Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Gricius

Senate Sponsor: Calvin R. Musselman

2

3 LONG TITLE

4 General Description:

5 This bill ~~{addresses access}~~ amends provisions relating to{-} government records and ~~{disclosure~~
6 ~~of, certain government information and records}~~ information.

6 Highlighted Provisions:

7 This bill:

- 8 ▶ defines terms;
- 9 ▶ amends provisions regarding the disclosure of voter history information;
- 10 ▶ classifies as private a record or information regarding whether a voter returned a ballot with
postage attached;
- 12 ▶ prohibits a government officer from accessing or using government records or information in a
manner that is not related to a duty of the government officer;
- 14 ▶ prohibits a government officer from accessing or using government records or information for a
primarily personal purpose, unless the government officer gains access to the records or information in
the same manner as a member of the public;
- 17 ▶

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makes it a crime to intentionally violate the provisions described in the preceding paragraph;

{and}

19 ▶ **modifies provisions relating to the award of attorney fees; and**

19 ▶ makes technical and conforming changes.

21 Money Appropriated in this Bill:

22 None

23 Other Special Clauses:

24 None

26 AMENDS:

27 **20A-5-410** , as last amended by Laws of Utah 2022, Chapter 248 , as last amended by Laws of Utah
2022, Chapter 248

28 **63G-2-202** , as last amended by Laws of Utah 2024, Chapter 288 , as last amended by Laws of Utah
2024, Chapter 288

29 **63G-2-209 , as enacted by Laws of Utah 2023, Chapter 516 , as enacted by Laws of Utah
2023, Chapter 516**

30 **63G-2-301** , as last amended by Laws of Utah 2020, Chapters 255, 399 , as last amended by Laws
of Utah 2020, Chapters 255, 399

31 **63G-2-302** , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws of Utah
2024, Chapter 234

32 **63G-2-405 , as last amended by Laws of Utah 2022, Chapter 388 , as last amended by Laws
of Utah 2022, Chapter 388**

33 **63G-2-801** , as last amended by Laws of Utah 2019, Chapter 254 , as last amended by Laws of Utah
2019, Chapter 254

34 **63G-2-802 , as last amended by Laws of Utah 2024, Chapter 18 , as last amended by Laws of
Utah 2024, Chapter 18**

35 ENACTS:

36 **63G-2-210** , Utah Code Annotated 1953 , Utah Code Annotated 1953

37

38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section **20A-5-410** is amended to read:

40 **20A-5-410. Election officer to provide voting history information and status -- Restrictions.**

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- 38 (1) As used in this section, "voting history record" means the following information [about the
existence and status of absentee ballot requests required by this section.] relating to a registered
voter:
- 41 (a) the information in the voter's voter registration record, other than the information classified as
private under Subsection 63G-2-302(1)(j);
- 43 (b) the voter's privacy status;
- 44 (c) the voter's status as active or inactive;
- 45 (d) the voter's voter identification number;
- 46 (e) the voter's federal information processing system code;
- 47 (f) the voter's precinct;
- 48 (g) each political district in which the voter is a resident;
- 49 (h) a list of elections in which the voter voted;
- 50 (i) whether the voter voted in person on election day;
- 51 (j) whether the voter voted in person before election day;
- 52 (k) whether the voter returned a mailed ballot;
- 53 (l) whether the voter's ballot was mailed to an alternate address; and
- 54 (m) the date on which the voter voted or on which the voter returned a mailed ballot.
- 55 (2)
- (a) Each election officer shall maintain, in the election officer's office, a voting history record of those voters registered to vote in the election officer's jurisdiction.
- 57 (b) [~~Except as it relates to a voter whose voter registration record is classified as private under Subsection 63G-2-302(1)(k), the~~] The voting history record is a public record under Title 63G, Chapter 2, Government Records Access and Management Act[-] , except:
- 61 (i) as it relates to a voter whose voter registration record is classified as private under Subsection 63G-2-302(1)(k) or (l); or
- 63 (ii) a record or information described in Subsection 63G-2-302(1)(n).
- 64 (3)
- (a) When an election officer reports voting history for an election, the election officer shall, for each voter whose voter registration is classified as private under Subsection 20A-2-104(4)(h), report the following, for that election only, without disclosing the identity of the voter:
- 68 (i) for voting by mail, the information described in Subsection (4)(a);

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- 69 (ii) for early voting, the date the individual voted; and
70 (iii) for voting on election day, the date the individual voted.
- 71 (b) In relation to the information of a voter whose voter registration is classified as private under
Subsection 20A-2-104(4)(h), a report described in Subsection (3)(a) may not disclose, by itself
or in conjunction with any other public information, the identity or any other personal identifying
information of the voter.
- 75 (4) [The] Subject to Subsection (5), the election officer shall ensure that the voting history record kept
by the election officer for each voting precinct contains:
- 77 (a) for voting by mail:
- 78 (i) the date that the manual ballot was mailed to the voter; and
79 (ii) the date that the voted manual ballot was received by the election officer;
- 80 (b) for early voting:
- 81 (i) the name and address of each individual who participated in early voting; and
82 (ii) the date the individual voted; and
- 83 (c) for voting on election day, the name and address of each individual who voted on election day.
- 85 (5) Subsection (4) does not authorize the disclosure of the information described in Subsection (4)
beyond the extent expressly provided in Subsections (2) and (3).
- 87 ~~(5)~~ (6)
- (a) Notwithstanding the time limits for response to a request for records under Section 63G-2-204 or the
time limits for a request for records established in any ordinance, the election officer shall ensure
that the information required ~~[by]~~ to be disclosed under this section is recorded and made available
to the public no later than one business day after ~~[its receipt in the election officer's office]~~ the day
on which the election officer receives the information.
- 93 (b) Notwithstanding the fee requirements of Section 63G-2-203 or the fee requirements established in
any ordinance, the election officer shall make copies of the voting history record available to the
public, in accordance with this section, for the actual cost of production or copying.
- 101 Section 2. Section **63G-2-202** is amended to read:
- 102 **63G-2-202. Access to private, controlled, and protected documents.**
- 99 (1) Except as provided in Subsection (11)(a), a governmental entity:
- 100 (a) shall, upon request, disclose a private record to:
- 101 (i) the subject of the record;

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- 102 (ii) the parent or legal guardian of an unemancipated minor who is the subject of the record;
104 (iii) the legal guardian of a legally incapacitated individual who is the subject of the record;
106 (iv) any other individual who:
107 (A) has a power of attorney from the subject of the record;
108 (B) submits a notarized release from the subject of the record or the individual's legal representative
dated no more than 90 days before the date the request is made; or
111 (C) if the record is a medical record described in Subsection 63G-2-302(1)(b), is a health care provider,
as defined in Section 26B-8-501, if releasing the record or information in the record is consistent
with normal professional practice and medical ethics; or
115 (v) any person to whom the record must be provided pursuant to:
116 (A) court order as provided in Subsection (7); or
117 (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers; and
119 (b) may disclose a private record described in Subsections 63G-2-302(1)(j) through [~~m~~] (n), without
complying with Section 63G-2-206, to another governmental entity for a purpose related to:
122 (i) voter registration; or
123 (ii) the administration of an election.
124 (2)
(a) Upon request, a governmental entity shall disclose a controlled record to:
125 (i) a physician, physician assistant, psychologist, certified social worker, insurance provider or
producer, or a government public health agency upon submission of:
127 (A) a release from the subject of the record that is dated no more than 90 days prior to the date the
request is made; and
129 (B) a signed acknowledgment of the terms of disclosure of controlled information as provided by
Subsection (2)(b); and
131 (ii) any person to whom the record must be disclosed pursuant to:
132 (A) a court order as provided in Subsection (7); or
133 (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers.
135 (b) A person who receives a record from a governmental entity in accordance with Subsection (2)(a)(i)
may not disclose controlled information from that record to any person, including the subject of the
record.

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- (3) If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.
- 141 (4) Upon request, and except as provided in Subsection (11)(b), a governmental entity shall disclose a protected record to:
- 143 (a) the person that submitted the record;
- 144 (b) any other individual who:
- 145 (i) has a power of attorney from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification; or
- 148 (ii) submits a notarized release from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification or from their legal representatives dated no more than 90 days prior to the date the request is made;
- 152 (c) any person to whom the record must be provided pursuant to:
- 153 (i) a court order as provided in Subsection (7); or
- 154 (ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers; or
- 156 (d) the owner of a mobile home park, subject to the conditions of Subsection 41-1a-116(5).
- 158 (5) Except as provided in Subsection (1)(b), a governmental entity may disclose a private, controlled, or protected record to another governmental entity, political subdivision, state, the United States, or a foreign government only as provided by Section 63G-2-206.
- 161 (6) Before releasing a private, controlled, or protected record, the governmental entity shall obtain evidence of the requester's identity.
- 163 (7) A governmental entity shall disclose a record pursuant to the terms of a court order signed by a judge from a court of competent jurisdiction, provided that:
- 165 (a) the record deals with a matter in controversy over which the court has jurisdiction;
- 166 (b) the court has considered the merits of the request for access to the record;
- 167 (c) the court has considered and, where appropriate, limited the requester's use and further disclosure of the record in order to protect:
- 169 (i) privacy interests in the case of private or controlled records;
- 170 (ii) business confidentiality interests in the case of records protected under Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and
- 172 (iii) privacy interests or the public interest in the case of other protected records;

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- 173 (d) to the extent the record is properly classified private, controlled, or protected, the interests favoring
access, considering limitations thereon, are greater than or equal to the interests favoring restriction
of access; and
- 176 (e) where access is restricted by a rule, statute, or regulation referred to in Subsection 63G-2-201(3)(b),
the court has authority independent of this chapter to order disclosure.
- 179 (8)
- (a) Except as provided in Subsection (8)(d), a governmental entity may disclose or authorize disclosure
of private or controlled records for research purposes if the governmental entity:
- 182 (i) determines that the research purpose cannot reasonably be accomplished without use or
disclosure of the information to the researcher in individually identifiable form;
- 185 (ii) determines that:
- 186 (A) the proposed research is bona fide; and
- 187 (B) the value of the research is greater than or equal to the infringement upon personal privacy;
- 189 (iii)
- (A) requires the researcher to assure the integrity, confidentiality, and security of the records; and
- 191 (B) requires the removal or destruction of the individual identifiers associated with the records as soon
as the purpose of the research project has been accomplished;
- 194 (iv) prohibits the researcher from:
- 195 (A) disclosing the record in individually identifiable form, except as provided in Subsection (8)(b); or
- 197 (B) using the record for purposes other than the research approved by the governmental entity; and
- 199 (v) secures from the researcher a written statement of the researcher's understanding of and
agreement to the conditions of this Subsection (8) and the researcher's understanding that
violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution
under Section 63G-2-801.
- 203 (b) A researcher may disclose a record in individually identifiable form if the record is disclosed for the
purpose of auditing or evaluating the research program and no subsequent use or disclosure of the
record in individually identifiable form will be made by the auditor or evaluator except as provided
by this section.
- 207 (c) A governmental entity may require indemnification as a condition of permitting research under this
Subsection (8).

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(d) A governmental entity may not disclose or authorize disclosure of a private record for research purposes as described in this Subsection (8) if the private record is a record described in Subsection [63G-2-302(1)(w)] 63G-2-302(1)(x).

212 (9)

(a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity may disclose to persons other than those specified in this section records that are:

214 (i) private under Section 63G-2-302; or

215 (ii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

217 (b) Under Subsection 63G-2-403(11)(b), the State Records Committee may require the disclosure to persons other than those specified in this section of records that are:

219 (i) private under Section 63G-2-302;

220 (ii) controlled under Section 63G-2-304; or

221 (iii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

223 (c) Under Subsection 63G-2-404(7), the court may require the disclosure of records that are private under Section 63G-2-302, controlled under Section 63G-2-304, or protected under Section 63G-2-305 to persons other than those specified in this section.

227 (10)

(a) A private record described in Subsection 63G-2-302(2)(f) may only be disclosed as provided in Subsection (1)(a)(v).

229 (b) A protected record described in Subsection 63G-2-305(43) may only be disclosed as provided in Subsection (4)(c) or Section 26B-6-212.

231 (11)

(a) A private, protected, or controlled record described in Section 26B-1-506 shall be disclosed as required under:

233 (i) Subsections 26B-1-506(1)(b) and (2); and

234 (ii) Subsections 26B-1-507(1) and (6).

235 (b) A record disclosed under Subsection (11)(a) shall retain its character as private, protected, or controlled.

241 Section 3. Section 63G-2-209 is amended to read:

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- 242 **63G-2-209. Vexatious requester.**
- 243 (1) As used in this section:
- 244 (a) "Committee" means the State Records Committee created in Section 63G-2-501.
- 245 (b) "Executive secretary" means an individual appointed as executive secretary under Subsection
63G-2-502(3).
- 247 (c) "Respondent" means a person that a governmental entity claims is a vexatious requester under this
section.
- 249 (2)
- (a) A governmental entity may file a petition with the committee to request relief from a person that the
governmental entity claims is a vexatious requester.
- 251 (b) A petition under Subsection (2)(a) shall:
- 252 (i) be filed with the committee by submitting the petition to the executive secretary; and
- 254 (ii) contain:
- 255 (A) the name, phone number, mailing address, and email address that the respondent submitted to the
governmental entity;
- 257 (B) a description of the conduct that the governmental entity claims demonstrates that the respondent is
a vexatious requester;
- 259 (C) a statement of the relief the governmental entity seeks; and
- 260 (D) a sworn declaration or an unsworn declaration, as those terms are defined in Section 78B-18a-102.
- 262 (c) On the day the governmental entity files a petition under Subsection (2)(a), the governmental entity
shall send a copy of the petition to the respondent.
- 264 (3)
- (a) Except as provided in Subsection (3)(c), no later than seven business days after receiving the
petition the executive secretary shall schedule a hearing for the committee to consider the petition,
to be held:
- 267 (i)
- (A) at the next regularly scheduled committee meeting falling at least 16 calendar days after the date the
petition is filed but no later than 64 calendar days after the date the petition is filed; or
- 270 (B) at a regularly scheduled committee meeting that is later than the period described in Subsection (3)
(a)(i)(A) if the later committee meeting is the first regularly scheduled committee meeting at which
there are fewer than 10 appeals scheduled to be heard; or

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- 274 (ii) at a date sooner than a period described in Subsection (3)(a)(i) if the governmental entity:
276 (A) requests an expedited hearing; and
277 (B) shows good cause for the expedited hearing.
- 278 (b) If the executive secretary schedules a hearing under Subsection (3)(a), the executive secretary shall:
280 (i) send a copy of the petition to each member of the committee;
281 (ii) send a copy of the notice of hearing to the governmental entity, the respondent, and each member of
the committee; and
283 (iii) if applicable, send a copy of the respondent's statement under Subsection (3)(c)(ii) to the
governmental entity and each member of the committee.
- 285 (c)
(i) The executive secretary may decline to schedule a hearing if:
286 (A) the executive secretary recommends that the committee deny the petition without a hearing
because the petition does not warrant a hearing;
288 (B) the executive secretary consults with the chair of the committee and at least one other member
of the committee; and
290 (C) the chair of the committee and all committee members with whom the executive secretary
consults under this Subsection (3)(c)(i) agree with the executive secretary's recommendation to
deny the petition without a hearing.
- 293 (ii) The executive secretary may, in making the determination described in Subsection (3)(c)(i)(A),
request that the respondent submit a written response to the petition.
- 296 (d) If the executive secretary declines to schedule a hearing in accordance with Subsection (3)(c):
298 (i) the executive secretary shall send a notice to the governmental entity and the respondent indicating
that the request for a hearing has been denied and the reasons for the denial; and
301 (ii) the committee shall:
302 (A) vote at the committee's next regular meeting to accept or reject the recommendation to deny the
petition without a hearing;
304 (B) issue an order that includes the reasons for the committee's decision to accept or reject the
recommendation; and
306 (C) if the committee rejects the recommendation to deny the petition without a hearing, direct the
executive secretary to schedule a hearing as provided in Subsection (3)(a).
- 309 (4)

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- (a) No later than five business days before the hearing, the respondent may submit to the executive secretary and the governmental entity a written statement in response to the governmental entity's petition.
- 312 (b) The written statement described in Subsection (4)(a) may be the same document as the respondent's written response described in Subsection (3)(c)(ii).
- 314 (5) No later than 10 business days before a hearing under this section, a person whose legal interests may be substantially affected by the proceeding may file a request for intervention with the committee as provided in Subsection 63G-2-403(6).
- 317 (6) If a respondent fails to submit a written statement under Subsection (4) or fails to appear at the hearing, the committee shall:
- 319 (a) cancel the hearing; or
- 320 (b) hold the hearing in accordance with Subsection (7).
- 321 (7)
- (a) If the committee holds a hearing scheduled under Subsection (3), the committee shall:
- 323 (i) allow the governmental entity to testify, present evidence, and comment on the issues; and
- 325 (ii) allow the respondent to testify, present evidence, and comment on the issues if the respondent appears at the hearing.
- 327 (b) At the hearing, the committee may allow another interested person to comment on the issues.
- 329 (c)
- (i) Discovery is prohibited, but the committee may issue subpoenas or other orders to compel production of necessary testimony or evidence.
- 331 (ii) If the subject of a committee subpoena disobeys or fails to comply with the subpoena, the committee may file a motion with the district court for an order to compel obedience to the subpoena.
- 334 (8)
- (a) No later than seven business days after a hearing is held as scheduled under Subsection (3) or the date on which a hearing cancelled under Subsection (6) was scheduled to be held, the committee shall:
- 337 (i) determine, in accordance with Subsection (9), whether the governmental entity has demonstrated that the respondent is a vexatious requester; and
- 339 (ii) issue a signed order that grants or denies the petition in whole or in part.

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- 340 (b) Upon granting the petition in whole or in part, the committee may order that the governmental
entity is not required to fulfill requests from the respondent or a person that submits a request on the
respondent's behalf for a period of time that may not exceed one year.
- 344 (c) The committee's order shall contain:
- 345 (i) a statement of the reasons for the committee's decision;
- 346 (ii) if the petition is granted in whole or in part, a specific description of the conduct the committee
determines demonstrates that the respondent is a vexatious requester, including any conduct the
committee finds to constitute an abuse of the right of access to information under this chapter or a
substantial interference with the operations of the governmental entity;
- 351 (iii) a statement that the respondent or governmental entity may seek judicial review of the committee's
decision in district court as provided in Section 63G-2-404; and
- 353 (iv) a brief summary of the judicial review process, the time limits for seeking judicial review, and a
notice that, in order to protect applicable rights in connection with the judicial review, the person
seeking judicial review of the committee's decision may wish to seek advice from an attorney.
- 357 (9) In determining whether a governmental entity has demonstrated that the respondent is a vexatious
requester, the committee shall consider:
- 359 (a) the interests described in Section 63G-2-102;
- 360 (b) as applicable:
- 361 (i) the number of requests the respondent has submitted to the governmental entity, including the
number of pending record requests;
- 363 (ii) the scope, nature, content, language, and subject matter of record requests the respondent has
submitted to the governmental entity;
- 365 (iii) the nature, content, language, and subject matter of any communications to the governmental entity
related to a record request of the respondent; and
- 367 (iv) any pattern of conduct that the committee determines to constitute:
- 368 (A) an abuse of the right of access to information under this chapter; or
- 369 (B) substantial interference with the operations of the governmental entity; and
- 370 (c) any other factor the committee considers relevant.
- 371 (10)
- (a) A governmental entity or respondent aggrieved by the committee's decision under this section may
seek judicial review of the decision as provided in Section 63G-2-404.

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- 374 (b) In a judicial review under Subsection (10)(a), the court may award reasonable attorney fees to a
respondent if:
- 376 (i) the respondent substantially prevails; and
- 377 (ii) the court determines that:
- 378 (A) the petition filed by the governmental entity under Subsection (2) is without merit;[-and]
- 380 (B) the governmental entity's actions in filing the petition lack a reasonable basis in fact or law[:] ; and
- 382 (C) the governmental entity filed the petition in bad faith.
- 383 (c) Except for the waiver of immunity in Subsection 63G-7-301(2)(e), a claim for attorney fees under
this Subsection (10) is not subject to Chapter 7, Governmental Immunity Act of Utah.
- 386 (11) Notwithstanding any other provision of this chapter, a records request that a governmental entity is
not required to fulfill in accordance with an order issued under this section may not be the subject of
an appeal under Part 4, Appeals.
- 389 (12) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the committee
shall make rules to implement this section.

391 Section 4. Section 4 is enacted to read:

392 **63G-2-210. Access to and use of {government} voter or election information by a**
government officer.

240 (1) As used in this section, "government officer" means:

241 {(a) {"Government information" means:} }

242 {(i) {any of the following that are in the custody or control of a governmental entity:} }

243 {(A) {a record, regardless of whether the record is classified as public, private, protected, or controlled,
or whether the information is exempt from disclosure under Subsection 63G-2-201(3)(b); or} }

246 {(B) {data or information that is not a record; or} }

247 {(ii) {any of the following to which a governmental entity has access that is not available to the general
public, or that is not accessible by the general public using the same method as the governmental
entity:} }

250 {(A) {a record, regardless of whether the record is classified as public, private, protected, controlled, or
whether the information is exempt from disclosure under Subsection 63G-2-201(3)(b); or} }

253 {(B) {data or information that is not a record.} }

254 {(b) {"Government officer" means:} }

255 {(i)} (a) an elected official; or

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- 256 ~~{(ii)}~~ (b) an officer, employee, volunteer, or agent of a governmental entity.
- 397 (2) A government officer may not:
- 398 (a) disclose, or attempt to discover, any information from a ballot cast by an identifiable voter;
- 400 (b) except as provided in Subsection (3), disclose in relation to an identifiable voter:
- 401 (i) the method by which the voter voted or returned a ballot;
- 402 (ii) when or where the voter voted;
- 403 (iii) how or when the voter's ballot was received;
- 404 (iv) whether a ballot was mailed to the voter;
- 405 (v) whether the voter placed postage on a return envelope; or
- 406 (vi) any information from the return envelope of a voter.
- 407 (3) Subsection (2) does not prohibit the disclosure, in mass, of the information included in a voting history record, in accordance with Section 20A-5-410.
- 257 ~~{(2)}~~ (4) Except as provided in Subsection ~~{(3)}~~ (5), a government officer who, due to the government officer's position as a government officer, has access to ~~{government information}~~ election records, may not access, use, copy, or release the information except to the extent that the access, use, copying, or release:
- 261 (a) is reasonably related to a duty of the government officer;
- 262 (b) is in accordance with the requirements of law; and
- 263 (c) is not done for a primarily personal purpose, including:
- 264 (i) a political purpose; ~~{or}~~
- 417 (ii) furthering the government officer's personal agenda; or
- 265 ~~{(ii)}~~ (iii) a purpose relating to the government officer's private business, hobbies, or personal interests.
- 267 ~~{(3)}~~ (5) Subsection ~~{(2)}~~ (4) does not prevent a government officer from accessing, using, copying, or releasing government information in the same manner available to a member of the general public, including by filing a record request under Section 63G-2-204.
- 423 Section 5. Section **63G-2-301** is amended to read:
- 424 **63G-2-301. Public records.**
- 272 (1) As used in this section:
- 273 (a) "Business address" means a single address of a governmental agency designated for the public to contact an employee or officer of the governmental agency.
- 275

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- (b) "Business email address" means a single email address of a governmental agency designated for the public to contact an employee or officer of the governmental agency.
- 278 (c) "Business telephone number" means a single telephone number of a governmental agency designated for the public to contact an employee or officer of the governmental agency.
- 281 (d) "Correctional facility" means the same as that term is defined in Section 77-16b-102.
- 282 (2) The following records are public except to the extent they contain information expressly permitted to be treated confidentially under the provisions of Subsections 63G-2-201(3)(b) and (6)(a):
- 285 (a) laws;
- 286 (b) the name, gender, gross compensation, job title, job description, business address, business email address, business telephone number, number of hours worked per pay period, dates of employment, and relevant education, previous employment, and similar job qualifications of a current or former employee or officer of the governmental entity, excluding:
- 291 (i) undercover law enforcement personnel; and
- 292 (ii) investigative personnel if disclosure could reasonably be expected to impair the effectiveness of investigations or endanger any individual's safety;
- 294 (c) final opinions, including concurring and dissenting opinions, and orders that are made by a governmental entity in an administrative, adjudicative, or judicial proceeding except that if the proceedings were properly closed to the public, the opinion and order may be withheld to the extent that they contain information that is private, controlled, or protected;
- 299 (d) final interpretations of statutes or rules by a governmental entity unless classified as protected as provided in Subsection 63G-2-305(17) or (18);
- 301 (e) information contained in or compiled from a transcript, minutes, or report of the open portions of a meeting of a governmental entity as provided by Title 52, Chapter 4, Open and Public Meetings Act, including the records of all votes of each member of the governmental entity;
- 305 (f) judicial records unless a court orders the records to be restricted under the rules of civil or criminal procedure or unless the records are private under this chapter;
- 307 (g) unless otherwise classified as private under Section 63G-2-303, records or parts of records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning commissions, the Division of Forestry, Fire, and State Lands, the School and Institutional Trust Lands Administration, the Division of Oil, Gas, and Mining, the Division of Water Rights, or other governmental entities that give public notice of:

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- 312 (i) titles or encumbrances to real property;
- 313 (ii) restrictions on the use of real property;
- 314 (iii) the capacity of persons to take or convey title to real property; or
- 315 (iv) tax status for real and personal property;
- 316 (h) records of the Department of Commerce that evidence incorporations, mergers, name changes, and uniform commercial code filings;
- 318 (i) data on individuals that would otherwise be private under this chapter if the individual who is the subject of the record has given the governmental entity written permission to make the records available to the public;
- 321 (j) documentation of the compensation that a governmental entity pays to a contractor or private provider;
- 323 (k) summary data;
- 324 (l) voter registration records, including an individual's voting history, except for a voter registration record or those parts of a voter registration record that are classified as private under Subsections 63G-2-302(1)(j) through [~~(m)~~] (n) or withheld under Subsection 20A-2-104(7);
- 328 (m) for an elected official, as defined in Section 11-47-102, a telephone number, if available, and email address, if available, where that elected official may be reached as required in Title 11, Chapter 47, Access to Elected Officials;
- 331 (n) for a school community council member, a telephone number, if available, and email address, if available, where that elected official may be reached directly as required in Section 53G-7-1203;
- 334 (o) annual audited financial statements of the Utah Educational Savings Plan described in Section 53B-8a-111; and
- 336 (p) an initiative packet, as defined in Section 20A-7-101, and a referendum packet, as defined in Section 20A-7-101, after the packet is submitted to a county clerk.
- 338 (3) The following records are normally public, but to the extent that a record is expressly exempt from disclosure, access may be restricted under Subsection 63G-2-201(3)(b), Section 63G-2-302, 63G-2-304, or 63G-2-305:
- 341 (a) administrative staff manuals, instructions to staff, and statements of policy;
- 342 (b) records documenting a contractor's or private provider's compliance with the terms of a contract with a governmental entity;

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- (c) records documenting the services provided by a contractor or a private provider to the extent the records would be public if prepared by the governmental entity;
- 346 (d) contracts entered into by a governmental entity;
- 347 (e) any account, voucher, or contract that deals with the receipt or expenditure of funds by a governmental entity;
- 349 (f) records relating to government assistance or incentives publicly disclosed, contracted for, or given by a governmental entity, encouraging a person to expand or relocate a business in Utah, except as provided in Subsection 63G-2-305(35);
- 352 (g) chronological logs and initial contact reports;
- 353 (h) correspondence by and with a governmental entity in which the governmental entity determines or states an opinion upon the rights of the state, a political subdivision, the public, or any person;
- 356 (i) empirical data contained in drafts if:
 - 357 (i) the empirical data is not reasonably available to the requester elsewhere in similar form; and
 - 359 (ii) the governmental entity is given a reasonable opportunity to correct any errors or make nonsubstantive changes before release;
- 361 (j) drafts that are circulated to anyone other than:
 - 362 (i) a governmental entity;
 - 363 (ii) a political subdivision;
 - 364 (iii) a federal agency if the governmental entity and the federal agency are jointly responsible for implementation of a program or project that has been legislatively approved;
 - 367 (iv) a government-managed corporation; or
 - 368 (v) a contractor or private provider;
- 369 (k) drafts that have never been finalized but were relied upon by the governmental entity in carrying out action or policy;
- 371 (l) original data in a computer program if the governmental entity chooses not to disclose the program;
- 373 (m) arrest warrants after issuance, except that, for good cause, a court may order restricted access to arrest warrants prior to service;
- 375 (n) search warrants after execution and filing of the return, except that a court, for good cause, may order restricted access to search warrants prior to trial;
- 377 (o) records that would disclose information relating to formal charges or disciplinary actions against a past or present governmental entity employee if:

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- 379 (i) the disciplinary action has been completed and all time periods for administrative appeal have
expired; and
- 381 (ii) the charges on which the disciplinary action was based were sustained;
- 382 (p) records maintained by the Division of Forestry, Fire, and State Lands, the School and Institutional
Trust Lands Administration, or the Division of Oil, Gas, and Mining that evidence mineral
production on government lands;
- 385 (q) final audit reports;
- 386 (r) occupational and professional licenses;
- 387 (s) business licenses;
- 388 (t) a notice of violation, a notice of agency action under Section 63G-4-201, or similar records used to
initiate proceedings for discipline or sanctions against persons regulated by a governmental entity,
but not including records that initiate employee discipline; and
- 392 (u)
- (i) records that disclose a standard, regulation, policy, guideline, or rule regarding the operation of a
correctional facility or the care and control of inmates committed to the custody of a correctional
facility; and
- 395 (ii) records that disclose the results of an audit or other inspection assessing a correctional facility's
compliance with a standard, regulation, policy, guideline, or rule described in Subsection (3)(u)(i).
- 398 (4) The list of public records in this section is not exhaustive and should not be used to limit access to
records.
- 553 Section 6. Section **63G-2-302** is amended to read:
- 554 **63G-2-302. Private records.**
- 402 (1) The following records are private:
- 403 (a) records concerning an individual's eligibility for unemployment insurance benefits, social services,
welfare benefits, or the determination of benefit levels;
- 405 (b) records containing data on individuals describing medical history, diagnosis, condition, treatment,
evaluation, or similar medical data;
- 407 (c) records of publicly funded libraries that when examined alone or with other records identify a
patron;
- 409 (d) records received by or generated by or for:
- 410 (i) the Independent Legislative Ethics Commission, except for:

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- 411 (A) the commission's summary data report that is required under legislative rule; and
413 (B) any other document that is classified as public under legislative rule; or
414 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record
is classified as public under legislative rule;
- 416 (e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission,
except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch
Ethics Complaints;
- 419 (f) records received or generated for a Senate confirmation committee concerning character,
professional competence, or physical or mental health of an individual:
- 421 (i) if, prior to the meeting, the chair of the committee determines release of the records:
423 (A) reasonably could be expected to interfere with the investigation undertaken by the committee; or
425 (B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and
427 (ii) after the meeting, if the meeting was closed to the public;
- 428 (g) employment records concerning a current or former employee of, or applicant for employment with,
a governmental entity that would disclose that individual's home address, home telephone number,
social security number, insurance coverage, marital status, or payroll deductions;
- 432 (h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as
private according to the requirements of that section;
- 434 (i) that part of a record indicating a person's social security number or federal employer identification
number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302,
61-1-4, or 61-2f-203;
- 437 (j) that part of a voter registration record identifying a voter's:
- 438 (i) driver license or identification card number;
439 (ii) social security number, or last four digits of the social security number;
440 (iii) email address;
441 (iv) date of birth; or
442 (v) phone number;
- 443 (k) a voter registration record that is classified as a private record by the lieutenant governor or a county
clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or 20A-2-204(4)(b);
- 446 (l) a voter registration record that is withheld under Subsection 20A-2-104(7);
447

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- (m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted in support of the form;
- 449 (n) a record or information regarding whether a voter returned a ballot with postage attached;
- 451 [~~(n)~~] (o) a record that:
- 452 (i) contains information about an individual;
- 453 (ii) is voluntarily provided by the individual; and
- 454 (iii) goes into an electronic database that:
- 455 (A) is designated by and administered under the authority of the Chief Information Officer; and
- 457 (B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;
- 460 [~~(o)~~] (p) information provided to the Commissioner of Insurance under:
- 461 (i) Subsection 31A-23a-115(3)(a);
- 462 (ii) Subsection 31A-23a-302(4); or
- 463 (iii) Subsection 31A-26-210(4);
- 464 [~~(p)~~] (q) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
- 467 [~~(q)~~] (r) information provided by an offender that is:
- 468 (i) required by the registration requirements of Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry; and
- 470 (ii) not required to be made available to the public under Subsection 77-41-110(4);
- 471 [~~(r)~~] (s) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;
- 474 [~~(s)~~] (t) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;
- 478 [~~(t)~~] (u) an email address provided by a military or overseas voter under Section 20A-16-501;
- 480 [~~(u)~~] (v) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;
- 482 [~~(v)~~] (w) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, except for:

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- 484 (i) the commission's summary data report that is required in Section 63A-15-202; and
485 (ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political
Subdivisions Ethics Review Commission;
- 487 [~~w~~] (x) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident
or threat;
- 489 [~~x~~] (y) a criminal background check or credit history report conducted in accordance with Section
63A-3-201;
- 491 [~~y~~] (z) a record described in Subsection 53-5a-104(7);
- 492 [~~z~~] (aa) on a record maintained by a county for the purpose of administering property taxes, an
individual's:
- 494 (i) email address;
495 (ii) phone number; or
496 (iii) personal financial information related to a person's payment method;
- 497 [~~aa~~] (bb) a record submitted by a taxpayer to establish the taxpayer's eligibility for an exemption,
deferral, abatement, or relief under:
- 499 (i) Title 59, Chapter 2, Part 11, Exemptions;
500 (ii) Title 59, Chapter 2, Part 12, Property Tax Relief;
501 (iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or
502 (iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;
- 503 [~~bb~~] (cc) a record provided by the State Tax Commission in response to a request under Subsection
59-1-403(4)(y)(iii);
- 505 [~~cc~~] (dd) a record of the Child Welfare Legislative Oversight Panel regarding an individual child
welfare case, as described in Subsection 36-33-103(3);~~and~~
- 507 [~~dd~~] (ee) a record relating to drug or alcohol testing of a state employee under Section 63A-17-1004;
509 [~~ee~~] (ff) a record relating to a request by a state elected official or state employee who has been
threatened to the Division of Technology Services to remove personal identifying information from
the open web under Section 63A-16-109; and
- 512 [~~ff~~] (gg) a record including confidential information as that term is defined in Section 67-27-105.
- 514 (2) The following records are private if properly classified by a governmental entity:
- 515 (a) records concerning a current or former employee of, or applicant for employment with a
governmental entity, including performance evaluations and personal status information such

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as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

- 520 (b) records describing an individual's finances, except that the following are public:
- 521 (i) records described in Subsection 63G-2-301(2);
- 522 (ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or
- 524 (iii) records that must be disclosed in accordance with another statute;
- 525 (c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;
- 527 (d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;
- 529 (e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;
- 533 (f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 26B-6-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and
- 537 (g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:
- 540 (i) depict the commission of an alleged crime;
- 541 (ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;
- 543 (iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;
- 545 (iv) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or
- 547 (v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.
- 549 (3)
- (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

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(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

554 (i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

556 (ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

558 (c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

714 Section 7. Section 63G-2-405 is amended to read:

715 **63G-2-405. Confidential treatment of records for which no exemption applies.**

716 (1) A court may, on appeal or in a declaratory or other action, order the confidential treatment of records for which no exemption from disclosure applies if:

718 (a) there are compelling interests favoring restriction of access to the record; and

719 (b) the interests favoring restriction of access clearly are greater than or equal to the interests favoring access.

721 (2) If a governmental entity requests a court to restrict access to a record under this section, the court shall require the governmental entity to pay the reasonable attorney fees and costs incurred by the lead party in opposing the governmental entity's request, if:

724 (a) the court finds that no statutory or constitutional exemption from disclosure could reasonably apply to the record in question;~~and~~

726 (b) the court denies confidential treatment under this section~~[-]~~ ; and

727 (c) the court finds that the governmental entity made the request in bad faith.

728 (3) This section does not apply to records that are specifically required to be public under statutory provisions outside of this chapter or under Section 63G-2-301, except as provided in Subsection (4).

731 (4)

(a) Access to drafts and empirical data in drafts may be limited under this section, but the court may consider, in its evaluation of interests favoring restriction of access, only those interests that relate to the underlying information, and not to the deliberative nature of the record.

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- (b) Access to original data in a computer program may be limited under this section, but the court may consider, in its evaluation of interests favoring restriction of access, only those interests that relate to the underlying information, and not to the status of that data as part of a computer program.
- 739 (5) Except for the waiver of immunity in Subsection 63G-7-301(2)(e), a claim for attorney fees or costs under this section is not subject to Chapter 7, Governmental Immunity Act of Utah.
- 742 Section 8. Section **63G-2-801** is amended to read:
- 743 **63G-2-801. Criminal penalties.**
- 563 (1)
- (a) A public employee or other person who has lawful access to any private, controlled, or protected record under this chapter, and who intentionally discloses, provides a copy of, or improperly uses a private, controlled, or protected record knowing that the disclosure or use is prohibited under this chapter, is, except as provided in Subsection 53-5-708(1)(c), guilty of a class B misdemeanor.
- 568 (b) It is a defense to prosecution under Subsection (1)(a) that the actor used or released private, controlled, or protected information in the reasonable belief that the use or disclosure of the information was necessary to expose a violation of law involving government corruption, abuse of office, or misappropriation of public funds or property.
- 573 (c) It is a defense to prosecution under Subsection (1)(a) that the record could have lawfully been released to the recipient if it had been properly classified.
- 575 (d) It is a defense to prosecution under Subsection (1)(a) that the public employee or other person disclosed, provided, or used the record based on a good faith belief that the disclosure, provision, or use was in accordance with the law.
- 578 (2)
- (a) A person who by false pretenses, bribery, or theft, gains access to or obtains a copy of any private, controlled, or protected record to which the person is not legally entitled is guilty of a class B misdemeanor.
- 581 (b) No person shall be guilty under Subsection (2)(a) who receives the record, information, or copy after the fact and without prior knowledge of or participation in the false pretenses, bribery, or theft.
- 584 (3)
- (a) A public employee who intentionally refuses to release a record, the disclosure of which the employee knows is required by law, is guilty of a class B misdemeanor.

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(b) It is a defense to prosecution under Subsection (3)(a) that the public employee's failure to release the record was based on a good faith belief that the public employee was acting in accordance with the requirements of law.

589 (c) A public employee who intentionally refuses to release a record, the disclosure of which the
employee knows is required by a final unappealed order from a government entity, the State
Records Committee, or a court is guilty of a class B misdemeanor.

593 (4) A person who intentionally violates Section 63G-2-210 is guilty of a class B misdemeanor.

776 Section 9. Section 63G-2-802 is amended to read:

777 **63G-2-802. Injunction -- Attorney fees and costs.**

778 (1) As used in this section, "defending party" means:

779 (a) a governmental entity or political subdivision:

780 (i) whose access denial is the subject of a petition for judicial review under Section 63G-2-404; and

782 (ii) that defends the access denial in an action for judicial review under Section 63G-2-404; or

784 (b) a person, other than the governmental entity or political subdivision described in Subsection (1)
(a), that is party to the action for judicial review in opposition to disclosure of the record that is the
subject of judicial review.

787 (2) A district court in this state may enjoin any governmental entity or political subdivision that violates
or proposes to violate the provisions of this chapter.

789 (3)

(a) ~~[A]~~ Subject to Subsection (6), a district court may assess against a defending party reasonable
attorney fees and costs reasonably incurred in connection with a judicial appeal to determine
whether a requester is entitled [to] access to records under a records request, if[-] :

793 (i) the requester substantially prevails[-] ; and

794 (ii) the court finds that the defending party acted in bad faith.

795 (b) ~~[B]~~ Subject to Subsection (6), in determining whether to award attorney fees or costs to a requester
under this section, the court shall consider:

797 (i) the public benefit derived from the case;

798 (ii) the nature of the requester's interest in the records; and

799 (iii) whether the defending party's actions had a reasonable basis.

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- (c) ~~[Attorney fees and costs shall not ordinarily be awarded]~~ A court may not award attorney fees or costs to a requester under this section if the purpose of the litigation is primarily to benefit the requester's financial or commercial interest.
- 803 (4) Neither attorney fees nor costs may be awarded for fees or costs incurred during administrative proceedings.
- 805 (5) A district court may assess against a requester reasonable attorney fees and costs reasonably incurred in connection with a judicial appeal to determine whether the requester is entitled to access to records under a records request, if:
- 808 (a) the defending party substantially prevails; and
- 809 (b) the court finds that the requester acted in bad faith.
- 810 ~~[(5)]~~ (6) ~~[Notwithstanding Subsection (3), a]~~ A court may award to a requester attorney fees and costs incurred in connection with appeals to district courts under Subsection 63G-2-404(2) only if the attorney fees and costs were incurred 20 or more days after the day on which the requester provided[:] to the governmental entity, political subdivision, or other person against which the requester seeks an award of attorney fees and costs.
- 815 ~~[(a)]~~ an adequate explanation in writing of the basis for the requester's position, regardless of whether the explanation is a part of or outside an administrative or court proceeding[:and] .
- 818 ~~[(b) to the governmental entity, political subdivision, or other person against which the requester seeks an award of attorney fees and costs:]~~
- 820 ~~[(6)]~~ (7) Except for the waiver of immunity in Subsection 63G-7-301(2)(e), a claim for attorney fees or costs as provided in this section is not subject to Chapter 7, Governmental Immunity Act of Utah.

823 Section 10. **Effective date.**

This bill takes effect on May 7, 2025.

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